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CHAPTER XI SCHOOL AND CEMETERY TRUST FUNDS

SECTION A - AUDITOR'S DUTIES

The county auditor is the official custodian and is responsible for administering the congressional school fund, the common school fund, the permanent endowment fund and all cemetery funds held in trust by the county.

The common school fund and the permanent endowment fund, in most counties, have been surrendered and paid to the treasurer of state, leaving only the congressional school fund and the cemetery funds subject to being loaned or invested. The surrender of common and permanent endowment funds to the state is required by the provisions of IC 21-1-10-1.

In administering school and cemetery funds held in trust, the auditor must observe the requirements set out in this chapter, all of which are based upon laws cited herein.

SECTION B - NATURE OF FUNDS AND ACCOUNTING REQUIREMENTS

Common School Fund

The common school fund consists of funds derived from a number of sources, enumerated in Article 8, Section 2 of the Constitution of Indiana, which under the constitution must remain a perpetual fund and the income therefrom used for the support of common schools. For the most part, current accretions to the fund are derived from fines and forfeitures and from unclaimed property and escheated estates.

In 1943 a law was enacted making the Treasurer of State the official custodian of this fund, as well as the permanent endowment fund, and made provision for a county to elect to surrender such funds to the state. [IC 21-1-3-1] Later, in 1953, IC 21-1-10-1 was enacted to require these funds to be surrendered and currently only a few counties have any common school or permanent endowment funds in trust.

Those counties having funds in trust are required to report to the Auditor of State and pay the interest thereon to the Treasurer of State, semiannually on May 1 and November 1. The interest so received by the Treasurer of State, together with interest earned on other common school funds held in trust, is then distributed by the state to local public school corporations.

Permanent Endowment Fund

The permanent endowment fund of Indiana University was established under the provisions of an 1883 Act, IC 21-7-3. As mentioned under the common school fund, the Treasurer of State is now the official custodian of the fund, with funds held in trust by any county required to be surrendered and paid to the state.

Those counties having permanent endowment funds in trust must report and pay the interest thereon at the same time and in the same manner as provided for the common school fund. The interest earned on the fund is distributed by the state to Indiana University.

Congressional School Fund

The congressional school fund was derived from the sale of the sixteenth section of land in each congressional township, or land equivalent thereto, granted or reserved to the inhabitants of each township by an Act of Congress, passed on April 19, 1816. The principal of the fund of each congressional township must be perpetually held in trust.

Semiannually, on the second Monday of July and the last Monday in January, the auditor of each county shall make distribution of the interest on the congressional fund to the treasurer of each school corporation. The interest is computed at the rate of 4% per annum on the amount held in trust for each congressional township and apportioned and distributed on the basis of the enumeration of children, pursuant to IC 21-1-1-54. The last enumeration of children was made in the year 1932 and the amounts held in trust by the respective townships have not changed since that time. Therefore, the basic apportionment and distribution formula has been affected in recent years only by the reorganization of school corporations.

Unsold Congressional Lands

The custody and care of all unsold lands belonging to the congressional township fund is vested in the township trustee of the township in which the same shall be situated. The trustee of any such township is required to file a report with the county auditor by the fourth Monday in March showing the income derived from the rental of such lands. [IC 21-1-1-15] The distribution of the income from unsold lands is governed by IC 21-2-1.

Interest on Funds Held in Trust

The county is liable for the payment of interest to the state on the common and permanent endowment funds and to the school corporations on the congressional school fund, on the amounts held in trust, whether or not the funds are loaned or invested. [IC 21-1-1-2]

Deficiencies in Funds

The county is liable for the preservation of the principal of funds held in trust and, except for cemetery trust funds deposited with the county on and after March 11, 1959, is liable for payment of interest thereon, whether or not the funds are loaned or invested. [IC 21-1-1-2; OAG No. 3-1960]

Any deficiency occurring in the principal or interest on any fund shall be made up from the county general fund.

Cemetery Trust Fund

This fund consists of money deposited with the county under the conditions enumerated in IC 23-14-29, to be held in trust under such terms as designated in writing.

The law cited above contains the following provisions with respect to the deposit of any such fund:

1. Deposit is permissive only and subject to acceptance by board of commissioners.
2. Permits acceptance only from or on behalf of any cemetery corporation, church, association or organization which is dissolved or is to be dissolved; does not permit individual deposits nor deposits from any active cemetery corporation, church, association or organization.

3. Authorizes return of deposit to any active cemetery organization, upon request of the proper officers of the cemetery or upon initiative of board of commissioners.

The income derived from the loan or investment of the fund shall be used for keeping in good condition the cemetery, lot or lots, monuments, mausoleums, vaults or other burial structures for which the fund was deposited.

Where money was deposited prior to March 11, 1959 the county is liable for payment of interest thereon at 4% per annum regardless of the amount earned and whether or not it is loaned or invested. Where deposited on and after March 11, 1959 the county is liable only for the interest earned thereon. (OAG No. 3-1960)

Distribution of the interest shall be made by the county auditor on the last Monday in January for the prior calendar year to the treasurer of the board of directors of any incorporated cemetery or, if the cemetery is abandoned or unincorporated, to the trustee of the township in which the cemetery is located. The treasurer or trustee shall take a receipt or voucher for any money paid out, stating the amount paid, the purpose for which expended and the fund from which paid and the receipts or vouchers shall be filed with the auditor on or before January 1 of each year to be presented to the board of commissioners for examination and approval at their January meeting. [IC 23-14-70-3]

SECTION C - ACCOUNTING FOR FUNDS

Ledger Accounts

A separate ledger account shall be established and kept for the "principal" and for the "interest" of each fund, using Form 24B; however, where a number of cemetery funds are held in trust it is recommended that a "control" account over the principal and a similar control over the interest of all such funds be established, with detail accounts back of each control. This will facilitate preparation of the monthly financial statement by requiring only that the control accounts for the cemetery principal fund and the cemetery interest fund be listed. The control accounts, as well as the detail accounts, shall be kept on Form 24B.

Instructions to be observed in posting and balancing the accounts are contained in Chapter VI.

Inventory and Reports

On April 30 of each year a complete inventory of loans shall be made, using Form No. 39 prescribed for that purpose. Although the form is designed for school funds it may also be used for cemetery funds by inserting the name of the cemetery in the heading or in the left margin of the form. After listing loans unpaid, any investments and the cash balance in the principal fund should be added thereto and the total verified with the principal held in trust.

At the May session of the board of commissioners in each year the auditor shall prepare a report to the board of the condition of the school funds as of April 30. After approval by the board copies shall be transmitted to the State Superintendent of Public Instruction and the Auditor of State. The report is prepared on Form No. 6 furnished by the State Superintendent. [IC 21-1-7-29 to 21-1-7-32]

On May 1 and November 1 of each year a report of school funds shall be filed with the Auditor of State on forms furnished by that office. The report also includes fines and forfeitures collected during the preceding six-months period. The report shall be accompanied with a warrant payable to the Treasurer of State for amounts due the state as shown by the report. [IC 21-1-3-5; 21-1-3-7; 21-1-10-1]

SECTION D - LOAN OF FUNDS

The statutes governing the loan of school funds, except as specifically noted, are also applicable to cemetery funds, since IC 23-14-70-1 provides that cemetery funds be loaned in like manner and at the same rate of interest as school funds.

County Borrowing

The county is authorized to borrow unloaned funds for a period not to exceed five years, pursuant to an ordinance of the county council specifying the amount to be borrowed and the time for which the loan is to be made. [IC 21-1-7-3 to 21-1-7-5]

The general law governing the creation of indebtedness by the county, as found in IC 6-1.1-20, must be complied with before the loan is made. This requires a published notice to be given of the intention to create the debt. A period of thirty days must elapse after publication of the notice, during which time taxpayers may remonstrate, before the board of commissioners can execute the written obligation of the county for the amount to be borrowed.

The loan shall be entered in the Register of School Fund Loans in the same manner as any other loan. The required contents of the written obligation executed by the board of commissioners are set out in IC 21-1-7-4. The written obligation shall be deposited with the auditor and preserved in the same manner as mortgages.

SECTION E - INVESTMENT OF FUNDS

Whenever the congressional school fund or any cemetery fund remains unloaned for a period of four months the board of commissioners, upon request of the auditor, may enter an order of record directing the treasurer to invest such fund in: (1) bonds, notes, certificates, and other valid obligations of the United States; (2) in bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States. [IC 21-1-7-6; 23-14-70-1]

Funds may also be invested in other Federal securities or in other types of investments, pursuant to IC 5-13-9.

The manner in which investments shall be made and accounted for is covered in Chapter VI.

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